

Exhibit A

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CLOSED,STAYED

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:19-mc-00040-RDM

In Re SUBPOENA TO NATIONAL TELECOMMUNICATIONS
AND INFORMATION ADMINISTRATION

Assigned to: Judge Randolph D. Moss

Case in other court: USDC for the SD of VA, 2:14cv15947

Cause: Motion to Compel

Date Filed: 03/22/2019

Date Terminated: 07/05/2022

Jury Demand: None

Nature of Suit: 890 Other Statutory Actions

Jurisdiction: Federal Question

In Re

**SUBPOENA TO NATIONAL
TELECOMMUNICATIONS AND
INFORMATION ADMINISTRATION**

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TERMINATED: 06/07/2022

Plaintiff

CITYNET, LLC

On behalf of the United States of America

V.

Defendant

FRONTIER WEST VIRGINIA INC.

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*TERMINATED: 04/08/2022**PRO HAC VICE**ATTORNEY TO BE NOTICED***Marcia G. Madsen**

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*ATTORNEY TO BE NOTICED***Sean P. McDonnell**

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/22/2019	<u>1</u>	MOTION to Compel (Filing fee \$ 47 receipt number 4616097299.) filed by FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO, KENNETH ARNDT. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Text of Proposed Order)(jf) (Entered: 03/27/2019)
04/05/2019	<u>2</u>	MOTION to Dismiss <i>or in the Alternative</i> , MOTION to Transfer Case by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (Attachments: # <u>1</u> Exhibit 1)(Peterson, Benton) (Entered: 04/05/2019)
04/12/2019	<u>3</u>	REPLY to opposition to motion re <u>2</u> MOTION to Dismiss <i>or in the Alternative</i> MOTION to Transfer Case <i>Reply Brief in Support of Motion to Compel Production of Documents</i> filed by FRONTIER WEST VIRGINIA INC.. (Attachments: # <u>1</u> Affidavit Affidavit of Service re National Telecommunications and Information Administration ICO Office of General Counsel's Agent of Process Service, # <u>2</u> Declaration Declaration of Jeremy S. Byrum)(Hutson, Elizabeth) (Entered: 04/12/2019)
04/17/2019		MINUTE ORDER: It is hereby ORDERED that the parties shall appear for oral argument on April 24, 2019 at 2:30 p.m in Courtroom 21. Signed by Judge Randolph D. Moss on 4/17/2019. (lcrdm2,) (Entered: 04/17/2019)
04/17/2019		Set/Reset Hearings: Motion Hearing set for 4/24/2019, at 2:30 PM, before Judge Randolph D. Moss. (kt) (Entered: 04/17/2019)
04/18/2019	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Jeremy S. Byrum, :Firm-McGuireWoods LLP, :Address- 800 East Canal Street, Gateway Plaza, Richmond VA 23219. Phone No. - 804-775-4305. Fax No. - 804-698-2080 Filing fee \$ 100, receipt number 0090-6067435. Fee Status: Fee Paid. by FRONTIER WEST VIRGINIA INC. (Hutson, Elizabeth) (Entered: 04/18/2019)

04/18/2019		MINUTE ORDER: Upon consideration of the motion for leave to appear pro hac vice, Dkt. 4, it is hereby ORDERED that the motion is GRANTED. Jeremy S. Bynum may appear pro hac vice in this case. Signed by Judge Randolph D. Moss on 4/18/2019. (lcrdm2,) (Entered: 04/18/2019)
04/24/2019		Minute Entry for proceedings held before Judge Randolph D. Moss: Motion Hearing held on 4/24/2019 re: <u>2</u> MOTION to Dismiss <i>or in the Alternative</i> MOTION to Transfer Case filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. For the reasons stated on the record, the parties shall meet and confer; Joint Status Report due by 5/24/2019. (Court Reporter: Jeff Hook.) (kt) (Entered: 04/24/2019)
04/30/2019	<u>5</u>	<p>TRANSCRIPT OF MOTION HEARING before Judge Randolph D. Moss held on April 24, 2019. Page Numbers: 1 - 33. Date of Issuance: April 30, 2019. Court Reporter: Jeff Hook. Telephone number: 202-354-3373. Transcripts may be ordered by submitting the Transcript Order Form</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter reference d above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 5/21/2019. Redacted Transcript Deadline set for 5/31/2019. Release of Transcript Restriction set for 7/29/2019.(Hook, Jeff) (Entered: 04/30/2019)</p>
05/24/2019	<u>6</u>	Joint STATUS REPORT by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Peterson, Benton) (Entered: 05/24/2019)
05/29/2019		MINUTE ORDER: Upon consideration of NTIA's motion to transfer, Dkt. 2, it is hereby ORDERED that the motion is DENIED. The Court notes that, although NTIA, as the moving party, "consents to the transfer," Dkt. 2 at 8, the language of Rule 45(f) is permissive, not mandatory. <i>See</i> Fed. R. Civ. P. 45(f) ("[The Court] <i>may</i> transfer a motion under this rule") (emphasis added). Where, as here, the transfer is contested, the Court must consider whether the transfer would be in the interest of judicial economy and fairness to the parties. Based on the materials submitted to the Court and the parties' representations at oral argument, the present dispute centers on whether the Frontier Defendants allegedly complied with NTIA's <i>Touhy</i> regulations. <i>See</i> Dkt. 2 at 6-8. That issue neither requires a detailed understanding of the underlying litigation nor otherwise necessitates resolution in the Southern District of West Virginia. The Court notes, moreover, that the case law in the Fourth Circuit is more favorable to the NTIA than the law of this Circuit. <i>Compare COMSAT Corp. v. Nat'l Sci. Found.</i> , 190 F.3d 269, 278 (4th Cir. 1999) <i>with Watts v. S.E.C.</i> , 482 F.3d 501, 508 (D.C. Cir. 2007); <i>see also</i> Dkt. 3 at 11 n.3. According to the Advisory Committee Notes to the 2013 amendments of Rule 45, "[t]he prime concern [of Rule 45] should be avoiding burdens on local nonparties subject to subpoenas." Here, the convenience of the parties would not be promoted by transfer but transfer would alter the governing law. Because transfer to the Southern District of West Virginia would not serve the purpose of Rule 45(f), and in light of the Frontier Defendants' opposition, the Court denies the motion to transfer.

		In light of the parties' joint status report, Dkt. 6, it is further ORDERED that NTIA shall file an opposition to the motion to compel, Dkt. 1, on or before June 11, 2019, and the Frontier Defendants shall file a reply brief on or before June 18, 2019. It is further ORDERED that the parties shall appear for a motions hearing on the motion to compel at 2:15 p.m., June 21, 2019 in Courtroom 21. Signed by Judge Randolph D. Moss on 5/29/2019. (lcrdm2,) (Entered: 05/29/2019)
05/30/2019		Set/Reset Deadlines/Hearings: Opposition due by 6/11/2019; Reply due by 6/18/2019. Motion Hearing set for 6/21/2019, at 2:15 PM, in Courtroom 21, before Judge Randolph D. Moss. (kt) (Entered: 05/30/2019)
06/11/2019	7	MOTION to Quash <i>and Opposition to Motion to Compel</i> by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (Attachments: # 1 Exhibit #1, # 2 Declaration)(Peterson, Benton) (Entered: 06/11/2019)
06/11/2019	8	RESPONSE (Opposition) re 1 Motion to Compel, filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (ztd); (See docket entry no. 7 to view.) (Entered: 06/13/2019)
06/14/2019	9	ERRATA by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION 7 MOTION to Quash <i>and Opposition to Motion to Compel</i> filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Attachments: # 1 Exhibit)(Peterson, Benton) (Entered: 06/14/2019)
06/18/2019	10	REPLY to opposition to motion re 1 MOTION to Quash <i>and Opposition to Motion to Compel</i> filed by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit Exhibit A)(Hutson, Elizabeth) Modified linkage on 6/19/2019 (ztd). (Entered: 06/18/2019)
06/18/2019	11	Memorandum in opposition to re 7 MOTION to Quash <i>and Opposition to Motion to Compel</i> filed by FRONTIER WEST VIRGINIA INC.. (ztd); (See docket entry 10 to view.) (Entered: 06/19/2019)
06/21/2019		Minute Entry for proceedings held before Judge Randolph D. Moss: Status Conference held on 6/21/2019. Case called for a Motion Hearing but not held. For the reasons stated on the record, the pending motions are held in abeyance. The parties shall submit a Joint Status Report on or before 6/27/2019. (Court Reporter: Jeff Hook.) (kt) (Entered: 06/21/2019)
06/27/2019	12	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 06/27/2019)
07/02/2019		MINUTE ORDER: In light of the parties' joint status report, Dkt. 12, it is hereby ORDERED that the parties shall submit a further joint status report on or before July 9, 2019. Signed by Judge Randolph D. Moss on 7/2/2019. (lcrdm2,) (Entered: 07/02/2019)
07/02/2019		Set/Reset Deadlines: Joint Status Report due by 7/9/2019. (kt) (Entered: 07/02/2019)
07/09/2019	13	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit A)(Byrum, Jeremy) (Entered: 07/09/2019)
07/10/2019		MINUTE ORDER: In light of the parties' joint status report, Dkt. 13, it is hereby ORDERED that the parties shall submit a further joint status report on or before July 23, 2019. Signed by Judge Randolph D. Moss on 7/10/2019. (lcrdm2,) (Entered: 07/10/2019)
07/10/2019		Set/Reset Deadlines: Joint Status Report due by 7/23/2019. (kt) (Entered: 07/10/2019)

07/23/2019	14	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 07/23/2019)
07/25/2019		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 14, it is hereby ORDERED that the parties shall file a further joint status report on or before July 26, 2019. Signed by Judge Randolph D. Moss on 07/24/2019. (lcrdm2,) (Entered: 07/25/2019)
07/25/2019		Set/Reset Deadlines: Joint Status Report due by 7/26/2019. (kt) (Entered: 07/25/2019)
07/26/2019	15	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Text of Proposed Order, # 2 Text of Proposed Order)(Byrum, Jeremy) (Entered: 07/26/2019)
08/05/2019	16	ORDER: Upon consideration of the parties' joint status report, Dkt. 15, it is hereby ORDERED that the parties shall abide by the agreed upon search protocol and production process as set forth in Dkt. 15-1 and Dkt. 15-2. See document for details. It is further ORDERED that parties shall file a joint status report on or before December 9, 2019. Signed by Judge Randolph D. Moss on 08/5/2019. (lcrdm2,) Modified on 8/6/2019 to remove "Minute Order" from docket entry text (kt). (Entered: 08/05/2019)
08/06/2019		Set/Reset Deadlines: Joint Status Report due by 12/9/2019. (kt) (Entered: 08/06/2019)
09/23/2019	17	NOTICE OF WITHDRAWAL OF APPEARANCE as to KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. Attorney Elizabeth A. Hutson terminated. (Hutson, Elizabeth) (Entered: 09/23/2019)
12/09/2019	18	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 12/09/2019)
12/10/2019		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 18, it is hereby ORDERED that the parties shall submit a further joint status report on or before January 20, 2020, which shall (i) apprise the Court of the parties' respective position on whether NTIA's production is in accord with the parties' agreement and the Court's Order, and (ii) recommend proposed next steps, if any. Signed by Judge Randolph D. Moss on 12/10/2019. (lcrdm2,) (Entered: 12/10/2019)
12/10/2019		Set/Reset Deadlines: Joint Status Report due by 1/20/2020. (dot) (Entered: 12/11/2019)
01/21/2020	19	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit Custodian List, # 2 Exhibit Search Terms, # 3 Exhibit 1.17.2020 Letter to NTIA)(Byrum, Jeremy) (Entered: 01/21/2020)
01/22/2020		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 19, it is hereby ORDERED that the parties shall file a further joint status report on or before February 21, 2020, identifying what, if any, issues remain in dispute and how the parties propose to proceed. Signed by Judge Randolph D. Moss on 01/22/2020. (lcrdm2,) (Entered: 01/22/2020)
02/21/2020	20	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 02/21/2020)
02/24/2020		MINUTE ORDER: In light of the parties' joint status report, Dkt. 20, it is hereby ORDERED that the parties shall file a further joint status report on or before March 20, 2020, identifying what, if any, issues remain in dispute and how the parties propose to proceed. Signed by Judge Randolph D. Moss on 02/24/2020. (lcrdm2,) (Entered: 02/24/2020)

03/20/2020	21	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 03/20/2020)
03/22/2020		MINUTE ORDER: In light of the issues identified in the parties' joint status report, Dkt. 21, it is hereby ORDERED that a Telephone Conference is set for April 14, 2020, at 11:00a.m. It is further ORDERED that the parties shall file a joint status report on or before April 3, 2020 identifying the issues in dispute, and setting forth their respective positions, as well as the authorities upon which they rely. Signed by Judge Randolph D. Moss on 03/22/2020. (lcrdm2,) (Entered: 03/22/2020)
03/23/2020		Set/Reset Deadlines/Hearings: Joint Status Report due by 4/3/2020. Telephone Conference set for 4/14/2020, at 11:00 AM, in Courtroom 21, before Judge Randolph D. Moss. (kt) (Entered: 03/23/2020)
04/03/2020	22	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Byrum, Jeremy) (Entered: 04/03/2020)
04/14/2020		Minute Entry for proceedings held before Judge Randolph D. Moss: Telephone Conference held on 4/14/2020. By 4/17/2020, the Government shall file under seal and ex parte, for in camera review by the Court, the materials discussed on the record. For the reasons stated on the record, the parties shall file a further Joint Status Report by 4/27/2020. (Court Reporter: Jeff Hook.) (kt) (Entered: 04/14/2020)
04/15/2020	23	SUGGESTION OF BANKRUPTCY Upon the Record as to Frontier West Virginia Inc. by FRONTIER WEST VIRGINIA INC.. (Attachments: # 1 Exhibit A)(Byrum, Jeremy) (Entered: 04/15/2020)
04/16/2020		MINUTE ORDER: In light of Frontier's notice of bankruptcy proceedings, Dkt. 23, this case is hereby STAYED. <i>See</i> 11 U.S.C. § 362(a) (providing that a voluntary bankruptcy petition under the applicable statutes "operates as a stay"). It is further ORDERED that Frontier shall file a status report with the Court when the automatic stay is lifted. Signed by Judge Randolph D. Moss on 04/16/2020. (lcrdm2,) (Entered: 04/16/2020)
04/16/2020		Case STAYED. (kt) (Entered: 04/16/2020)
05/03/2021	24	NOTICE of Emergence from Bankruptcy and Termination of Automatic Stay by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO (Attachments: # 1 Exhibit A)(Byrum, Jeremy) (Entered: 05/03/2021)
05/04/2021		MINUTE ORDER: In light of the notice of emergence from bankruptcy and termination of the automatic stay, Dkt. 24 , it is hereby ORDERED that the parties shall file a joint status report on or before May 18, 2021, proposing next steps in this proceeding. Signed by Judge Randolph D. Moss on 5/4/2021. (lcrdm2) (Entered: 05/04/2021)
05/18/2021	25	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 05/18/2021)
05/19/2021		MINUTE ORDER: On April 14, 2020, the Court ordered the NTIA to file under seal and ex parte, for the Court's in camera review, records the agency is withholding under the deliberative process privilege, with a deadline of April 17, 2020. <i>See</i> Minute Entry (April 14, 2020). But one day before that submission was due, the Court stayed the case in light of Frontier's notice of bankruptcy. <i>See</i> Minute Order (April 16, 2020). More than a year later, Frontier emerged from bankruptcy. Dkt. 24 . The Court therefore terminated the automatic stay and ordered the parties to submit a joint status report. Minute Order (May 4, 2021). Upon consideration of the parties' joint status report, Dkt. 25 , it is hereby ORDERED that the NTIA shall submit the contested records under seal and ex parte, for the Court's in camera review, on or before May 26, 2021. It is further ORDERED that the parties shall

		appear telephonically for a hearing on June 2, 2021, at 1 p.m. The Courtroom Deputy Clerk will distribute the necessary dial-in information. Signed by Judge Randolph D. Moss on 5/19/2021. (lcrdm2) (Entered: 05/19/2021)
05/26/2021	26	NOTICE of Filing by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION re Order,,,,, Set Deadlines/Hearings,,,, (Peterson, Benton) (Entered: 05/26/2021)
05/28/2021	27	<p>TRANSCRIPT OF TELEPHONE CONFERENCE before Judge Randolph D. Moss held on April 14, 2020. Page Numbers: 1 - 63. Date of Issuance: May 28, 2021. Court Reporter: Jeff Hook. Telephone number: 202-354-3373. Transcripts may be ordered by submitting the Transcript Order Form</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 6/18/2021. Redacted Transcript Deadline set for 6/28/2021. Release of Transcript Restriction set for 8/26/2021.(Hook, Jeff) (Entered: 05/28/2021)</p>
06/02/2021		Minute Entry for proceedings held before Judge Randolph D. Moss: Telephonic Motion Hearing held on 6/2/2021 re: 7 MOTION to Quash <i>and Opposition to Motion to Compel</i> filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. For the reasons stated on the record, the parties shall file a Joint Status Report by 7/9/2021. (Court Reporter : Jeff Hook.) (kt) (Entered: 06/02/2021)
07/08/2021	28	Joint STATUS REPORT by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Peterson, Benton) (Entered: 07/08/2021)
07/09/2021		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 28 , it is hereby ORDERED that the parties shall file a further joint status report on or before August 10, 2021. Signed by Judge Randolph D. Moss on 7/9/2021. (lcrdm2) (Entered: 07/09/2021)
08/10/2021	29	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 08/10/2021)
08/11/2021		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 29 , it is hereby ORDERED that the parties shall file a further joint status report on or before September 10, 2021. Signed by Judge Randolph D. Moss on 8/11/2021. (lcrdm2) (Entered: 08/11/2021)
09/09/2021	30	Joint STATUS REPORT by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Peterson, Benton) (Entered: 09/09/2021)
09/10/2021		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 30 , it is hereby ORDERED that the parties shall file a further joint status report on or before October 11, 2021. Signed by Judge Randolph D. Moss on 09/10/2021. (lcrdm2) (Entered: 09/10/2021)
10/11/2021	31	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) (Entered: 10/11/2021)

10/12/2021		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 31 , it is hereby ORDERED that the parties shall file a further joint status report on or before October 25, 2021. Signed by Judge Randolph D. Moss on 10/12/2021. (lcrdm2) (Entered: 10/12/2021)
10/25/2021	32	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Byrum, Jeremy) (Entered: 10/25/2021)
11/08/2021	33	Unopposed MOTION for Leave to File <i>Memorandum Regarding In Camera Review of Documents Withheld Pursuant to Deliberative Process Privilege</i> by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit Memorandum Regarding In Camera Review of Documents Withheld Pursuant to Deliberative Process Privilege, # 2 Exhibit A)(Byrum, Jeremy) (Entered: 11/08/2021)
11/10/2021		MINUTE ORDER: Upon consideration of the movants' motion for leave to file, Dkt. 33 , it is hereby ORDERED that the motion is GRANTED. The Court further ORDERS that the parties shall appear for a telephonically for a hearing on December 17, 2021, at 2:00 p.m. The parties are directed to use the dial-in information previously provided by the Courtroom Deputy Clerk. Signed by Judge Randolph D. Moss on 11/10/2021. (lcrdm2) (Entered: 11/10/2021)
11/10/2021	34	MEMORANDUM <i>Regarding In Camera Review of Documents Withheld Pursuant to Deliberative Process Privilege</i> by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Exhibit A)(znmw) (Entered: 11/10/2021)
11/12/2021	35	NOTICE of Appearance by Darrell C. Valdez on behalf of SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (Valdez, Darrell) (Entered: 11/12/2021)
12/10/2021		MINUTE ORDER: The Court hereby ORDERS that the status conference set for December 17, 2021, at 2:00 p.m. is VACATED and RESCHEDULED for December 23, 2021, at 2:00 p.m. It is further ORDERED that the parties shall appear via Zoom. The Courtroom Deputy Clerk will provide the necessary login information. Signed by Judge Randolph D. Moss on 12/10/2021. (lcrdm2) (Entered: 12/10/2021)
12/13/2021	36	Unopposed MOTION to Continue <i>Reschedule Status Conference</i> re Set Deadlines/Hearings, by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Attachments: # 1 Text of Proposed Order)(Valdez, Darrell) Modified event title on 12/14/2021 (znmw). (Entered: 12/13/2021)
12/13/2021		MINUTE ORDER: Upon consideration of the NTIA's motion to continue 36 , it is hereby ORDERED that the motion is GRANTED. The Court further ORDERS that the Zoom status conference set for December 23, 2021, at 2:00 p.m. is VACATED and RESCHEDULED for January 18, 2022, at 2:00 p.m. Courtroom Deputy Clerk will provide the necessary login information. Signed by Judge Randolph D. Moss on 12/13/2021. (lcak) Modified on 12/14/2021 to correct date. (dot). (Entered: 12/13/2021)
12/13/2021		Set/Reset Hearings: Status Conference set for 1/18/2022 at 2:00 PM via Telephonic/VTC before Judge Randolph D. Moss. (dot) (Entered: 12/14/2021)
01/14/2022	37	NOTICE of Appearance by Nicholas James Giles on behalf of FRONTIER WEST VIRGINIA INC. (Giles, Nicholas) (Entered: 01/14/2022)
01/18/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Video (Zoom) Status Conference held on 1/18/2022. For the reasons stated on the record, Defendants shall file a

		list of factual assertions of documents in dispute by 1/25/2022; Government's response, if any, due by 2/1/2022. (Court Reporter: Nancy Meyer.) (kt) (Entered: 01/18/2022)
01/25/2022	38	SUPPLEMENTAL MEMORANDUM re 34 Memorandum filed by FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, KENNETH ARNDT, DANA WALDO by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Byrum, Jeremy) Modified event title on 1/26/2022 (znmw). (Entered: 01/25/2022)
02/01/2022	39	RESPONSE re 38 Memorandum, filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. (Valdez, Darrell) (Entered: 02/01/2022)
04/08/2022	40	NOTICE of Appearance by Nicholas James Giles on behalf of KENNETH ARNDT, MARK MCKENZIE, DANA WALDO (Giles, Nicholas) (Entered: 04/08/2022)
04/08/2022	41	NOTICE OF WITHDRAWAL OF APPEARANCE as to KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. Attorney Jeremy S. Byrum terminated. (Byrum, Jeremy) (Entered: 04/08/2022)
05/06/2022	42	NOTICE of Appearance by Marcia G. Madsen on behalf of KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO (Madsen, Marcia) (Entered: 05/06/2022)
05/06/2022	43	NOTICE of Appearance by Sean P. McDonnell on behalf of KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO (McDonnell, Sean) (Entered: 05/06/2022)
05/10/2022	44	ENTERED IN ERROR.....NOTICE OF WITHDRAWAL OF APPEARANCE as to KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. Attorney Nicholas James Giles terminated. (Giles, Nicholas); Modified on 5/10/2022 (ztth). (Entered: 05/10/2022)
05/10/2022		NOTICE OF ERROR regarding 44 Notice of Withdrawal of Appearance. The following error(s) need correction: Incorrect document or case. Docket Entry entered in error at the request of counsel. (ztth) (Entered: 05/10/2022)
05/10/2022	45	NOTICE OF WITHDRAWAL OF APPEARANCE as to KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Giles, Nicholas) (Entered: 05/10/2022)
05/31/2022		MINUTE ORDER: The parties are hereby ORDERED to appear for a motions hearing on the motion to compel 1 and motion to quash 7 on June 2, 2022, at 1:00 p.m. in Courtroom 8. The Court will discuss the disputed records; the parties are thus directed to have copies of the redacted records in front of them, and the government is further directed to have copies of the unredacted records in front of it. If the parties prefer to proceed remotely rather than in person, either party may file a notice with the Court indicating that preference. Any such notice must contain the position of the opposing party. Signed by Judge Randolph D. Moss on 5/31/2022. (lcrdm2) (Entered: 05/31/2022)
05/31/2022		MINUTE ORDER: Due to a conflict in the Court's schedule, it is hereby ORDERED that the motions hearing set for June 2, 2022, at 1:00 p.m. is RESCHEDULED for June 2, 2022, at 10:30 a.m., in Courtroom 8. Signed by Judge Randolph D. Moss on 5/31/2022. (lcrdm2) (Entered: 05/31/2022)
05/31/2022	46	Joint MOTION to Continue <i>Reschedule Motions Hearing</i> by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Text of Proposed Order)(Madsen, Marcia) (Entered: 05/31/2022)

05/31/2022		MINUTE ORDER: In light of the parties' joint motion to continue, Dkt. 46 , it is hereby ORDERED that the parties shall appear for a status conference tomorrow, June 1, 2022, at 11:30 a.m., to occur via Zoom. Signed by Judge Randolph D. Moss on 5/31/2022. (lcrdm2) (Entered: 05/31/2022)
06/01/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Video (Zoom) Status Conference held on 6/1/2022. For the reasons stated on the record, the parties shall file a Joint Status Report by 6/15/2022. Motion Hearing set for 6/17/2022, at 2:00 PM, by video, before Judge Randolph D. Moss. (Court Reporter: Jeff Hook.) (kt) (Entered: 06/01/2022)
06/01/2022		MINUTE ORDER: For the reasons stated on the record at today's status conference, <i>see</i> Minute Entry (June 1, 2022), it is hereby ORDERED that the motions hearing set for June 2, 2022, is VACATED. Signed by Judge Randolph D. Moss on 6/1/2022. (lcrdm2) (Entered: 06/01/2022)
06/07/2022	47	NOTICE OF WITHDRAWAL OF APPEARANCE as to SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. Attorney Darrell C. Valdez terminated. (Valdez, Darrell) (Entered: 06/07/2022)
06/13/2022	48	NOTICE of Appearance by Cameron Edlefsen on behalf of KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO (Edlefsen, Cameron) (Entered: 06/13/2022)
06/15/2022	49	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Madsen, Marcia) (Entered: 06/15/2022)
06/17/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Video (Zoom) Motion Hearing held on 6/17/2022 re: 1 MOTION to Compel filed by FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO, KENNETH ARNDT, and 7 MOTION to Quash and Opposition to Motion to Compel filed by SUBPOENA TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. Oral rulings made on the record by the Court as to in camera documents discussed. For the reasons stated on the record, Plaintiff shall file a status report a week from today as to document 1034. Order forthcoming to memorialize today's matter. (Court Reporter: Nancy Meyer.) (kt) (Entered: 06/17/2022)
06/17/2022		MINUTE ORDER: For the reasons stated on the record, the Court hereby ORDERS the NTIA to take the following actions with respect to the redacted documents that remain at issue in this case, <i>see</i> Dkt. 49 (describing twelve documents in dispute): <u>Doc. 917</u> : Disclose paragraphs 2a, 2b, and 2c, and the sentence on page 2 that begins with "The only logical conclusion;" <u>Doc. 919</u> : disclose the text on the bottom of page 22 of 44, beginning with "Project benefits," through the third sentence of paragraph 3 on page 23 of 44, which begins with "The state will leverage", and on page 24 of 44, disclose (i) the sentence that begins with "The State focused," (ii) the sentence that begins with "Seven middle mile applications," (iii) the sentence that begins with "The applicant proposes a middle mile project," and (iv) the clause that begins with "while there was some identification" and ends with "incumbents;" <u>Doc. 942</u> : No further disclosures necessary; <u>Doc. 946</u> : Disclose any text related to overbuild or peering through the existing network; <u>Doc. 980</u> : No further disclosures necessary; <u>Doc. 983</u> : No further disclosures necessary; <u>Doc. 997</u> : No further disclosures necessary; <u>Doc. 1014</u> : Disclose the same information as is described with respect to Doc. 919, provided that the government does not determine that there are material differences between Docs. 1014 and 919; <u>Doc. 1018</u> : No further disclosures necessary; <u>Doc. 1029</u> : No disclosure necessary; <u>Doc. 1030</u> : Disclose, subject to protective order (as discussed on the record); <u>Doc. 1034</u> : The government shall, per the Court's Minute Entry, file a joint status report on or before June 24, 2022, describing the nature of

		this document and stating the reasons, if any, justifying its withholding. Signed by Judge Randolph D. Moss on 6/17/2022. (lcrdm2) (Entered: 06/17/2022)
06/24/2022	50	Joint STATUS REPORT by KENNETH ARNDT, FRONTIER WEST VIRGINIA INC., MARK MCKENZIE, DANA WALDO. (Attachments: # 1 Proposed Protective Order) (Madsen, Marcia) (Entered: 06/24/2022)
07/01/2022	51	PROTECTIVE ORDER: The parties shall comply with the directives in the attached Protective Order. Signed by Judge Randolph D. Moss on 7/1/2022. (lcrdm2) (Entered: 07/01/2022)
07/05/2022		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 50 , it is hereby ORDERED that Document No. 1034 is properly withheld pursuant to the deliberative process privilege. According to the government, the record was "prepared by NTIA staffer Scott Woods on or about October 2014 and provides Mr. Woods' assessment and subjective impression of the issues raised by OIG." Dkt. 50 at 2. Based on that representation, and the Court's examination of the document in question, the record appears to contain internal Department of Commerce communications about an ongoing OIG investigation. Communications of that type "reflect[] the give-and-take of the consultative process" and are thus protected by the deliberative process privilege. <i>Coastal States Gas Corp. v. Dep't of Energy</i> , 617 F.2d 854, 866 (D.C. Cir. 1980). Furthermore, Frontier's "need for the information" does not "outweigh[] the interest of the government in preventing disclosure of the information" because the pertinent information contained in Document No. 1034 is reflected in the 2017 OIG report and elsewhere in the NTIA's production. <i>Cobell v. Norton</i> , 213 F.R.D. 1, 5 (D.D.C. 2003). Put differently, on the Court's review of Document No. 1034, it does not appear that the document contains information that might be important to Frontier's defense in the underlying <i>qui tam</i> suit that is not reflected in the 2017 OIG report or other documents already disclosed to Frontier. Accordingly, the Court will DENY Frontier's request for disclosure of Document No. 1034. For the reasons stated in this Order, as well as in the Court's prior Minute Order dated June 17, 2022, and on the record during a hearing on June 17, 2022, it is hereby ORDERED that the NTIA's motions to dismiss 2 and to quash 7 are DENIED. The Clerk of Court is directed to terminate this case. Signed by Judge Randolph D. Moss on 7/5/2022. (lcrdm2) (Entered: 07/05/2022)

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